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October 17, 2024

VIA ECF

The Honorable Katherine Polk Failla  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 2103  
New York, NY 10007

Re: Response to Letter Motion (ECF No. 96) in *Brooks et al. v. WarnerMedia Direct, LLC*, No. 1:23-cv-11030-KPF

Dear Judge Failla,

Petitioners oppose the request by Respondent WarnerMedia Direct, LLC (“WarnerMedia”) for additional briefing. ECF No. 96. Petitioners’ Supplemental Memorandum of Law, ECF No. 94, properly “interpret[ed] their findings in view of the Court’s analysis” in the July 8, 2024 Order, ECF No. 81 at 47, by explaining how, after considering the new facts available following discovery into Petitioners’ purported assent to the NAM Agreement, the Court should interpret a line of cases on which it previously touched, ECF No. 81 at 40, to find that there was no such assent.

Further, the Court dismissed Petitioners’ earlier request for sanctions “without prejudice to renew,” Dkt. 81 at 46, and Petitioners renewed their request because discovery failed to establish their assent to the NAM Agreement. WarnerMedia has already responded, ECF No. 50 at 23-24, to Petitioners’ earlier request for sanctions, ECF No. 13 at 26-29, and that earlier request does not differ materially from their renewed request, ECF No. 94 at 18-19.

Additional briefing on these matters would serve only to introduce further delay. Petitioners therefore oppose WarnerMedia’s request.

Sincerely,



Albert Y. Pak